

### Remarks

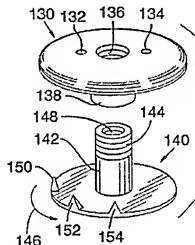
The various parts of the Office Action are discussed below under similar headings.

#### **35 USC § 112, 6<sup>th</sup> paragraph**

The Examiner determined that claims 38-53 included detailed structure, and thus, the Examiner did not interpret claims 38-53 as being subject to 35 U.S.C. § 112, 6<sup>th</sup> paragraph. The claims have been amended and it is respectfully submitted that the claims are now in proper "means-plus-function" form.

#### **Claim Rejections – 35 USC § 102**

The Examiner rejected claims 1-2, 4-6, 8-13, 15-22, 24-47 and 49-53 under 35 U.S.C. § 102(b) as being anticipated by Sevrain et al. (U.S. Patent No. 5,707,373). Specifically, the Examiner determined that Sevrain discloses a superior implant (ref. #130). The Examiner further determined that the implant of Sevrain has articulating surface (top surface) and a fixation surface (bottom surface). Similarly, the Examiner determined that that Sevrain discloses an inferior implant (ref. #140). The Examiner further determined that the implant of Sevrain has articulating surface (bottom surface) and a fixation surface (top surface). The implant of Sevrain is reproduced below:



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As amended claims 1 and 20 now include a tab extending from a lateral edge of the implant where the tab has an aperture for receiving a fixation device. It is respectfully submitted that Sevrain does not disclose such a device.

***Claim Rejections – 35 USC § 103***

Claims 14, 23 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sevrain et al. (U.S. Patent No. 5,707,373) in view of Fitz (U.S. Patent No. 5,571,191). It is respectfully submitted that Sevrain and Fitz, alone or in combination, do not teach or suggest the limitations of claims 14, 23 or 48.

***Conclusion***

This application is now in condition for allowance and an early action to that effect is earnestly solicited.

Respectfully submitted,

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